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*Specially Appearing for Defendants Hininger,  
Thomas, Marr, Fuller, Williams, and CoreCivic*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GEORGE L. VONTRESS,  
  
Plaintiff,  
  
v.  
  
STATE OF NEVADA, et al.,  
  
Defendants.

Case No. 2:18-cv-01746-RFB-PAL

**CORECIVIC DEFENDANTS' MOTION  
TO EXCUSE INDIVIDUALLY NAMED  
DEFENDANTS FROM THE FEBRUARY  
15, 2019 EARLY MEDIATION  
CONFERENCE**

Defendants Hininger (incorrectly sued as Defendant Henninger), Thomas, Marr, Fuller, Williams, and CoreCivic (collectively, "CoreCivic Defendants"), through counsel, respectfully request that Defendants Hininger, Thomas, Marr, Fuller, and Williams (collectively, "Individual CoreCivic Defendants") be excused from personal appearance at the mediation conference set for Friday, February 15, 2019 in Las Vegas, Nevada. The CoreCivic Defendants have specially appeared in this matter for the limited purpose of participating in the Inmate Early Mediation Program. By so doing, they do not consent to the jurisdiction of this Court over them or concede that this Court is the appropriate venue for resolution of the issues raised in the Complaint, which

1 arise out of Plaintiff's incarceration at CoreCivic's Saguaro Correctional Center ("SCC") in Eloy,  
2 Arizona. Nor do the CoreCivic Defendants waive any other defenses, objections, or arguments to  
3 the claims asserted in this matter. (Doc. 34.)

4 Plaintiff, George Vontress ("Plaintiff"), originally filed this lawsuit on September 10,  
5 2018. (Doc. 1-1.) On that same date, Plaintiff filed a Motion for Preliminary Injunction and  
6 Temporary Restraining Order seeking an Order requiring the Defendants to provide him  
7 orthopedic braces and an extra mattress. (Doc. 2-3.) Although none of the Defendants had been  
8 served at that time, the Court ordered the Clerk to notify the Nevada Attorney General's Office to  
9 make a special appearance on behalf of the Defendants at a hearing set for October 2, 2018. (Doc.  
10 5.) The Attorney General's Office did so, and the Court ordered the Nevada Department of  
11 Corrections ("NDOC") to provide Plaintiff's medical records under seal or for in camera review  
12 by close of business on October 12, 2018. (Doc. 6-7.)

13 NDOC submitted the records for in camera review on October 11, 2018, and filed a  
14 response to Plaintiff's Motion for Preliminary Injunction and Temporary Restraining Order on  
15 October 19, 2018. (Doc. 9, 12.) The Court thereafter ordered NDOC to provide Plaintiff the  
16 braces and mattress by October 26, 2018. (Doc. 13, 18.) The Court further ordered Defendant  
17 SCC,<sup>1</sup> which had not yet been served, to make a special appearance at the next hearing. (Doc.  
18 18.) On October 25, 2018, NDOC informed the Court that is had provided the braces and extra  
19 mattress to Plaintiff. (Doc. 14.)

20 On October 30, 2018, Plaintiff filed a Motion Requesting Keep Away Order and Judicial  
21 Notice that sought an order keeping SCC Correctional Counselor ("CC") Andrew Loza away  
22 from Plaintiff due to alleged threats against Plaintiff by CC Loza. (Doc. 15-16.) Although the  
23 CoreCivic Defendants had not yet been served, the Court ordered counsel for SCC to file a  
24 special appearance by November 5, 2018, and a response to Plaintiff's Motion Requesting Keep  
25 Away Order by November 7, 2018, and ordered the Clerk to serve a copy of the Order directing  
26 the appearance and response on SCC Warden Thomas. (Doc. 19.)

27 \_\_\_\_\_  
28 <sup>1</sup> The Court ultimately dismissed SCC from this matter with prejudice, as it is an "inanimate  
building, not a person or entity subject to liability." (Doc. 34.)

1 CoreCivic filed a Notice of Special Appearance on November 5, 2018, and a Response to  
2 the Motion Requesting Keep Away Order on November 7, 2018.<sup>2</sup> (Doc. 20-21.) On November  
3 15, 2018, the Court set a hearing on the Motion Requesting Keep Away Order for November 19,  
4 2018, and ordered the personal appearance of Plaintiff, Warden Thomas, and CC Loza (who is  
5 not a Defendant in this matter). (Doc. 25-27.) Following the hearing, the Court denied the Motion  
6 Requesting Keep Away Order. (Doc. 33.) The Court also denied the Motion for Preliminary  
7 Injunction and Temporary Restraining Order as moot, as Plaintiff had been provided the braces  
8 and extra mattress. (Id.)

9 The Court issued its Screening Order on November 21, 2018, staying the matter for 90  
10 days to allow the parties to participate in the Inmate Early Mediation Program, and directing  
11 Plaintiff, through the United States Marshals Service (“USMS”), to serve the CoreCivic  
12 Defendants “for the limited purpose of engaging in settlement discussions during the 90-day  
13 stay.” (Doc. 34.) The Court further ordered the CoreCivic Defendants to advise the Court within  
14 21 days of service whether they would be entering a special appearance for the purpose of  
15 settlement, and stated that “[n]o defenses or objections, including lack of service, shall be waived  
16 as a result of the filing of the limited notice of appearance.” (Id.) The CoreCivic Defendants filed  
17 their Notice of Special Appearance on January 28, 2019. (Doc. 41.)<sup>3</sup>

18 On January 25, 2019, the Court set the Inmate Early Mediation Conference for Friday,  
19 February 15, 2019. (Doc. 40.) The Order Setting Inmate Early Mediation Conference requires the  
20 personal attendance of a representative of CoreCivic “who has the full authority, subject to any  
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22 <sup>2</sup> At every opportunity, the CoreCivic Defendants have confirmed the limited nature of their  
23 appearances in this matter to date, and have reserved their right to assert all objections and  
24 defenses, including but not limited to lack of jurisdiction and improper venue.

25 <sup>3</sup> At the time the CoreCivic Defendants filed their Notice of Special Appearance, counsel for the  
26 CoreCivic Defendants had received no information regarding the status of USMS’s attempts to  
27 serve the CoreCivic Defendants, but filed the Notice of Special Appearance in order to ensure  
28 their ability to participate in the mediation conference. (Doc. 40-41.) On January 29, 2019,  
counsel learned that all of the CoreCivic Defendants except Daniel Marr were served on January  
25, 2019 (Mr. Marr is no longer employed by CoreCivic, such that facility staff at SCC were  
unable to accept service on his behalf at that time). Counsel has since confirmed that they may  
accept service on behalf of Mr. Marr and will be representing him in this matter as well.

1 legally required board approval, to settle the case on [CoreCivic's] behalf.” (Doc. 40.) The Order  
2 further requires that “[a]ny person who is a defendant and not a current or former employee of the  
3 [NDOC] must also attend the mediation conference in person, unless his or her presence is  
4 excused by the Court.” (Id.)

5 The Individual CoreCivic Defendants respectfully request that they be excused from  
6 attending, for the following reasons. First, CoreCivic is defending and indemnifying the  
7 Individual CoreCivic Defendants, and CoreCivic's corporate representative will have full and  
8 binding authority to settle the case on their behalf. The Individual CoreCivic Defendants will  
9 have no input with respect to any settlement demands or counter-offers and will not be  
10 contributing monetarily to any settlement that may be reached, such that their personal attendance  
11 would waste valuable resources with no benefit to the settlement process. Indeed, the Court sua  
12 sponte excused individual defendants who are current or former employees of NDOC,  
13 presumably because NDOC—like CoreCivic with respect to the Individual CoreCivic  
14 Defendants—will be representing their interests and making decisions on their behalf. (Id.)

15 Second, requiring the Individual CoreCivic Defendants to travel from the various states  
16 where they reside to Nevada for the mediation conference would impose an undue burden on  
17 them, especially where (1) they have not yet answered the Complaint, and so far have only been  
18 served “for the limited purpose of engaging in settlement discussions during the 90-day stay”  
19 (id.); (2) they have repeatedly reserved their right to challenge the Court's jurisdiction over them  
20 and the District of Nevada as the appropriate venue;<sup>4</sup> and (3) their appearance would be of no  
21 benefit to the settlement process. Defendants Thomas, Fuller, and Williams live in Arizona.  
22 Defendant Hininger is the CEO of CoreCivic, and lives in Tennessee. Any costs CoreCivic would  
23 be required to incur for their travel and accommodations would reduce the amount potentially  
24 available for settlement. Defendant Marr is no longer a CoreCivic employee, and now lives and  
25 works in Texas. Requiring him to travel to Nevada for the mediation conference would impede  
26 his ability to work and generate income.

27 \_\_\_\_\_  
28 <sup>4</sup> Plaintiff will be appearing via videoconference due to the logistical issues involved in  
transporting him from Arizona to Nevada.

1 The Individual CoreCivic Defendants therefore respectfully submit that good cause exists  
2 to excuse their personal attendance at the February 15, 2019 mediation conference, and request  
3 that the Court do so.

4 DATED this 5th day of February 2019.

5 STRUCK LOVE BOJANOWSKI & ACEDO, PLC

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7 By /s/ Jacob B. Lee

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 5, 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Adam P. Laxalt  
Matthew Feeley  
Henry Kim  
State of Nevada  
Office of the Attorney General  
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Las Vegas, Nevada 89101  
Email: [usdcfilings@ag.nv.gov](mailto:usdcfilings@ag.nv.gov)  
Email: [mfeeley@ag.nv.gov](mailto:mfeeley@ag.nv.gov)  
Email: [hkim@ag.nv.gov](mailto:hkim@ag.nv.gov)

*Specially Appearing Party*

I hereby certify that on this same date, I served the attached document by U.S. Mail, postage prepaid, on the following, who is not a registered participant of the CM/ECF System:

George Vontress (NDOC #96499)  
Saguaro Correctional Center  
1252 E. Arica Road  
Eloy, AZ 85131

*Plaintiff Pro Se*

/s/ Allen Rowley

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**UNITED STATES DISTRICT COURT  
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GEORGE L. VONTRESS,  
  
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STATE OF NEVADA, et al.,  
  
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**ORDER GRANTING MOTION TO  
EXCUSE INDIVIDUALLY NAMED  
DEFENDANTS FROM THE FEBRUARY  
15, 2019 EARLY MEDIATION  
CONFERENCE**

Upon consideration of CoreCivic Defendants' Motion to Excuse Individually Named Defendants from the February 15, 2019 Early Mediation Conference, and good cause appearing,

**IT IS HEREBY ORDERED** that Defendants' Motion is GRANTED.

**IT IS FURTHER ORDERED** that Defendants Hininger, Thomas, Marr, Fuller, and Williams are hereby excused from appearing at the February 15, 2019 Early Mediation Conference.

DATED this 7th day of February 2019.

  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE